

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Improving Public Safety Communications in the) WT Docket 02-55
800 MHz Band)
)
Consolidating the 800 and 900 MHz)
Industrial/Land Transportation and Business Pool)
Channels) ET Docket No. 00-258
)
Amendment of Part 2 of the Commission's Rules)
to Allocate Spectrum Below 3 GHz for Mobile)
and Fixed Services to Support the Introduction of) RM-9498
New Advanced Wireless Services, including)
Third Generation Wireless Systems)
)
Petition for Rule Making of the Wireless) RM-10024
Information Networks Forum Concerning the)
Unlicensed Personal Communications Service)
)
Petition for Rule Making of UT Starcom, Inc.,) ET Docket No. 95-18
Concerning the Unlicensed Personal)
Communications Service)
)
Amendment of Section 2.106 of the)
Commission's Rules to Allocate Spectrum at 2)
GHz for use by the Mobile Satellite Service)

ORDER**Adopted: November 23, 2004****Released: November 24, 2004****By the Chief, Public Safety and Critical Infrastructure Division:**

1. *Background.* On July 8, 2004, the Commission adopted technical and procedural measures to address the ongoing problem of interference to public safety communications in the 800 MHz band.¹ These measures included reconfiguring the 800 MHz band to separate generally incompatible technologies. To locate an independent third party—the Transition Administrator (TA)—to oversee the

¹ See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) as amended by *Erratum*, DA 04-3208, rel. Oct. 6, 2004, and *Erratum*, DA 04-3459, rel. Oct. 29, 2004 (800 MHz R&O).

band reconfiguration process, the Commission formed a Search Committee, consisting of representatives of Nextel Communications, Inc. (Nextel), the Association of Public Safety Communications Officials-International (APCO); the Industrial Telecommunications Association (ITA); Southern LINC, and the United Telecom Council (UTC).² The Search Committee selected, as the TA, a team consisting of BearingPoint, Squire-Sanders-Dempsey LLP and Baseline Telecom (BearingPoint Team).³ On October, 29, 2004, the Wireless Telecommunications Bureau concurred in the selection of the BearingPoint Team as the TA.⁴

2. Under the terms of the 800 MHz R&O, the TA must provide the Commission with a schedule detailing when band reconfiguration will commence in each 800 MHz National Public Safety Planning Advisory Committee (NPSPAC) region by November 29, 2004.⁵ However, on November 12, 2004, the TA petitioned the Commission to extend this date for filing the relocation plan until January 31, 2005.⁶ The TA made two principal points in support of its Extension Request. First, it asserts that the extension would allow it to engage in outreach to multiple affected licensees at the outset of the process, thereby to identify and resolve in advance, potential logistical problems associated with band reconfiguration.⁷ To assist it in developing the band reconfiguration schedule, the TA requested that Commission advise any non-Nextel licensees operating cellular-architecture Enhanced Specialized Mobile Radio Systems (ESMR)⁸ that they should make the election described in paragraph 163 of the *Report and Order* by a date certain and so notify the TA.⁹

3. As specified in the *Report and Order*, these non-Nextel cellular-architecture ESMR operators may elect to remain on their current channels and operate on a non-interference basis; move to the upper portion of the non-cellular band segment, also on a non-interference basis; or, move to the portion of the 800 MHz spectrum (817-824 MHz/862-869 MHz) designated for ESMR operation.¹⁰ We concur that the elections made by these non-Nextel ESMR operators are relevant data points in the TA's planning of the band reconfiguration schedule. Accordingly, we encourage such non-Nextel licensees to

² See 800 MHz R&O, 19 FCC Rcd 15070-71 ¶¶ 190-192.

³ See Wireless Telecommunications Bureau Concurs With Search Committee Selection Of A Transition Administrator, WT Docket 02-55, *Public Notice*, DA 04-3492, (WTB) (rel. Oct. 29, 2004).

⁴ *Id.*

⁵ See 800 MHz R&O, 19 FCC Rcd 15075-76 ¶ 201. (Within thirty days of the Commission's approval of the TA's selection.) See also 47 C.F.R. § 90.677.

⁶ Motion for Extension of the 800 MHz Transition Administrator for Extension of Time filed by the 800 MHz Transition Administrator, Nov. 12, 2004 (Extension Request).

⁷ *Id.* at 2, 3.

⁸ See 800 MHz R&O, 19 FCC Rcd 15057 ¶ 163 & n.441 (The non-Nextel ESMR licensees must state their option in the realignment schedule that the 800 MHz TA will transmit to the Commission).

⁹ This election does not affect SouthernLINC, which has a separate filing deadline specified in ¶ 167 of the *Report and Order*.

¹⁰ See 800 MHz R&O, 19 FCC Rcd 14977 ¶ 11.

file their election with the TA, with a copy to the Commission¹¹ as soon as possible. The election should be accompanied by documentation that the licensee was operating an ESMR system on the date that the *Report* and Order was published in the Federal Register.¹³ Second, the TA maintains that the Commission's resolution of some of the issues raised in the *800 MHz Ex Parte PN* may be relevant to the content of the TA's band reconfiguration schedule, and that the requested extension therefore will permit the TA to devise a relocation schedule that will maximize the effectiveness of the relocation process, mitigate harmful interference, use resources efficiently and minimize potential problems and associated delays.¹⁴

4. *Discussion.* The Commission imposed a short deadline for the submission of the TA's band reconfiguration schedule because of its concern about continued interference to 800 MHz public safety systems. Reconfiguration of the 800 MHz band has not commenced because certain conditions precedent have not been satisfied.¹⁵ Therefore, the requested extension will not frustrate the underlying purpose of this particular aspect of the *800 MHz R&O*, namely, to rapidly provide a complete region-by-region plan for reconfiguring the 800 MHz band. Moreover, we believe that providing the TA with the additional time at this juncture will actually conserve time over the long term because the requested extension will allow the TA to consult with a larger number of affected licensees thereby developing a consensus-based comprehensive band reconfiguration schedule. Accordingly, the requested extension should facilitate—rather than delay—the parties' meeting the thirty-six month deadline set forth in the *800 MHz R&O*.¹⁶

5. Accordingly, **IT IS ORDERED** pursuant to Sections 4(i) and 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155 and Sections 1.46 and 1.925 of the Commission's Rules, 47 C.F.R. §§ 1.46, 1.925 that Section 90.677 of the Commission's Rules, 47 C.F.R. §90.677, IS WAIVED and the extension request filed by the 800 MHz Transition Administrator on November 12, 2004, **IS GRANTED**.

¹¹ ESMR licensees may file their elections electronically through the ECFS via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>.

¹³ See *800 MHz R&O*, 19 FCC Rcd 15057

¹⁴ *Id.* at 2-3 citing Commission Seeks Comment on *Ex Parte* Presentations and Extends Certain Deadlines Regarding the 800 MHz Public Safety Interference Proceeding, *Public Notice*, FCC 04-253, rel. Oct. 22, 2004 (*800 MHz Ex Parte PN*).

¹⁵ See, e.g., *800 MHz R&O*, 19 FCC Rcd 15129, 15130 ¶¶ 344, 346.

¹⁶ *800 MHz R&O*, 19 FCC Rcd 15129, 15130 ¶¶ 344, 346.

6. **IT IS FURTHER ORDERED** that the deadline for the Transition Administrator to submit a reconfiguration schedule detailing when band reconfiguration would commence in each 800 MHz National Public Safety Planning Advisory Committee region IS EXTENDED until January 31, 2005.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Michael J. Wilhelm", written over a horizontal line.

Michael J. Wilhelm
Chief, Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau